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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,044	08/22/2003	David Chemelewski	TKG3971	8528
30245	7590	05/19/2005	EXAMINER	
ANTHONY EDW. J CAMPBELL			HUANG, SIHONG	
PO BOX 160370			ART UNIT	
AUSTIN, TX 78716			PAPER NUMBER	
			2632	

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/646,044

Applicant(s)

CHEMELEWSKI, DAVID

Examiner

Sihong Huang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-4 and 8-14 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 8-14 is/are allowed.
6) ☒ Claim(s) 2-4 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Office Action is responsive to the amendment filed on April 4, 2005. As directed by the amendment, claims 1, 5-7 and 15-20 are canceled, claims 2 and 4 are amended, no new claim is added. Thus, claims 2-4 and 8-14 are presently pending in this patent application with claims 2 and 8 being the independent claims. The specification and drawings are also amended by the amendment. However, the amendment contains the following deficiencies.

2. CLAIMS: Some of the claim identifiers are not correct. For example, “currently unchanged” (claim 3) and “currently allowed” (claims 8-14) are not conformed to the current practice.

3. SPECIFICATION: The changes to the specification are not correct. Reference numerals for safety circuit (60) and switch (62) are added to paragraph 2 of page 9. However, reference numeral 62 is not found/shown in any drawings and reference numeral 60 was used for “rear wall” shown in Fig. 3 and line 15 of page 10.

4. DRAWINGS: The amended drawings (at least Fig. 3 is amended to correct reference numeral 36 to 30) are not labeled as “replacement sheet” (see the objection to the drawings below for current practice). Fig. 2 is different from the originally filed figure (some part is missing). Fig. 4 appears to be the same, but the remarks stated that it is amended.

5. REMARKS: The added information/explanation in the remarks (page 2, third paragraph) concerning the safety circuit and switch in the drawings are new matters without support from the originally filed disclosure.

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6. The headings (e.g., Application/Control Number and Art Unit) of the amendment are not compliant to the current application information.

Drawings

7. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the safety circuit and the switch (lines 10-11) of claim 8 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

8. The disclosure is objected to because of the following informalities:

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In the specification, paragraph 2 of page 9, the newly added reference numeral “60” for “the safety circuit” was used to described “the rear wall” as shown in Fig. 3 and line 15 of page 10 in the originally filed specification.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 2-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, the claimed limitation “said LED indicator is illuminated when said beam of light is interrupted” is not consistent with the disclosure. Applicant in the specification, lines 28-29 of page 10, wrote that “...the light beam 20 is interrupted, and the LED 26 is extinguished...” which is opposed from the claimed requirement. Clarification is required.

Response to Arguments

11. Applicant's arguments filed April 4, 2005 have been fully considered but they are not persuasive.

Applicant in the third paragraph of page 2 of the amendment stated “The safety circuit - reference numeral 60 – is embedded in the garage door opener motor and controller (34) and is portrayed as such in the amended Figure 4. The switch – reference numeral 62 – would connect the safety circuit (60) and the indicator lamp (30)” which

statement contains new matters not supported by the originally filed disclosure (e.g., specific location of the safety circuit; the specific electrical connection of the switch). In addition, the “safety circuit” and “switch” as claimed in claim 8 are not shown in any of the drawings (reference numerals 60 and 62 are not in the drawings and reference numeral 60 was already used for “the rear wall” in Fig. 3 and line 15 of page 10 and therefore can not be re-used for “the safety circuit”). Figure 4 as provided is not amended as stated.

The 112 2nd problem in claim 2 is recently discovered by the examiner and therefore this office action is made Non-Final.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sihong Huang whose telephone number is 571-272-2958. The examiner can normally be reached on Mon, Thu & Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Daniel J. Wu can be reached on 571-272-2964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Sihong Huang
May 13, 2005

A handwritten signature in black ink, consisting of stylized, overlapping loops and lines, positioned to the right of the typed name and date.